

## **REMARKS**

Claims 1-69 are pending in the present application with claims 16-35, 42-58, and 69 withdrawn from consideration. Claims 1-9, 36-37, and 59-68 stand rejected in the Office Action dated April 15, 2010. In particular, claims 1-7 and 59-66 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,849,040 (“Ruohonen”); independent Claim 36 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pub. No. 2001/0002441 (“Boveja”); claim 37, which depends from claim 36, stands rejected under 35 U.S.C. §103(a) as being unpatentable over Boveja in view of U.S. Pub. No. 2004/0167592 (“Grove”); claims 9 and 68 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ruohonen; and claims 8 and 67 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ruohonen in view of Boveja.

Applicants would like to thank the Examiner for indicating that claims 10-15 and 38-41 would be allowable if rewritten to include all of the limitations of the base claims. However, Applicants believe that claims 1 and 36, from which claims 10-15 and 38-41 depend either directly or indirectly, are allowable in view of the foregoing amendments and the following remarks.

### **Claim Rejections**

With respect to the rejections of claims 1-9, 36-37, and 59-68, Examiner Hopkins notes on page 10 of the outstanding office action that a recitation of some sort of contact should obviate the prior art (Office Action dated April 15, 2010, page 10).

While Applicants believe that the claims are in condition for allowance in their present form, to advance prosecution Applicants have amended the claims to adopt the suggestions made by Examiner Hopkins. Applicants agree that the claims, particularly as amended, patentably define over the cited art, where none of the references cited teach or suggest a sensor for detecting contact of the TMS coil with the patient. Ruohonen’s fiducials, in particular, are only capable of providing a single position that means nothing by itself and certainly does not detect any sort of contact of the coil and patient.

Accordingly, Applicants respectfully submit that independent claims 1, 36, and 59 and the claims that depend therefrom patentably define over the cited references and are in

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condition for allowance. Applicants request withdrawal of the rejection of claims 1-9, 36-41, and 59-68 under 35 U.S.C. §102 or §103. Reconsideration of the office action and a Notice of Allowance are respectfully requested.

### **Conclusion**

In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Lori Swanson at (215) 564-8997 to discuss the resolution of any remaining issues.

The Commissioner is hereby authorized to charge any fee deficiency, charge any additional fees, or credit any overpayment of fees, associated with this application in connection with this filing, or any future filing, submitted to the U.S. Patent and Trademark Office during the pendency of this application, to Deposit Account No. 23-3050.

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